

STATE OF CALIFORNIA

PETE WILSON, Governor

PUBLIC UTILITIES COMMISSION

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APR 19 1993



April 16, 1993

FCC - MAIL ROOM

Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

93-22

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYFEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYRe: In the Matter of Policies and Rules Implementing
the Telephone Disclosure and Dispute Resolution Act
CC Docket No. ~~93-33~~, RM 7990

Dear Ms. Searcy:

Please find enclosed for filing an original plus eleven copies of
the COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE
PUBLIC UTILITIES OF THE STATE OF CALIFORNIA in the above-
referenced docket.

Very truly yours,

Edward W. O'Neill
Attorney for California

EWO:bjk

Enclosures (12)

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FEDERAL COMMUNICATIONS COMMISSION
BEFORE ~~OFFICE~~ OF THE SECRETARY
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20544

In the Matter of)

Policies and Rules Implementing)
the Telephone Disclosure and Dispute)
Resolution Act)

FCC - MAIL ROOM

CC Docket No. 93-22
RM-7990

COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE
PUBLIC UTILITIES OF THE STATE OF CALIFORNIA

In this Notice of Proposed Rulemaking (NPRM), the FCC is seeking comment on the technical and economic considerations associated with pay-per-call blocking. The FCC in a prior rulemaking declined to impose a requirement that the LECs accelerate their purchase of new equipment to comply with blocking. While California agrees with the FCC that the investment should not be undertaken solely to provide pay-per-call blocking, we believe it essential that effective consumer safeguards be required.

In the CPUC's decision on 900 service consumer protections, D.91-03-021, California adopted the policy that if pay-per-call blocking on a per-line basis could not be offered through an LEC central office, then the entire switch should be blocked from pay-per-call services. The CPUC adopted this policy despite testimony that such a blocking requirement would, in certain circumstances, deny access to those who want pay-per-call services. However, the CPUC found that pay-per-call blocking is

such a vital part of any effective pay-per-call consumer safeguards, that a customer's right to block must override the consideration of denied access. California recommends that this same pay-per-call blocking policy be adopted by the FCC as a national pay-per-call blocking standard.

The NPRM proposed forgiveness of charges and refund when a pay-per-call services is found in violation of federal law or federal pay-per-call regulation. The NPRM also contains proposed rules to protect carriers and information providers against nonpayment of legitimate charges. California is supportive of

has placed risk on information providers and carriers to provide information services' customers with adequate information about information charges. However, we have also given providers a vehicle by which they can protect themselves against subscriber's who attempt to abuse the safeguards. California recommends that the FCC adopt provisions for interstate charge forgiveness or refunds similar to those California has established for intrastate 900 service.

The FCC proposed to adopt the Telephone Disclosure and Dispute Resolution Act's (TDDRA) prohibitions on the use of 800 number or similar toll-free services in conjunction with audiotext services. Based on consumer complaints, the CPUC supports of adopting the TDDRA's 800 prohibitions. Should the FCC decide not to adopt the TDDRA's prohibition, California proposes that all FCC and FTC pay-per-call rules be extended to toll-free audiotext services.

Although the FCC has requested comment on the technical and economic feasibility of accomplishing the detailed blocking contemplated by the TDDRA, and in particular on the feasibility of interstate blocking by office code, it also indicated that it has determined that local exchange carriers originating 900 service calls are unable to determine whether the call is interstate or intrastate and are unable to identify and block 900 calls on a jurisdictional basis. NPRM at fn 17. This conclusion is incorrect and is not supported by the record.

Comments in CC Docket No. 91-65 clearly established that interexchange carriers that carry 900 calls know whether these

calls are interstate or intrastate.¹ This information is required on a real-time basis in order to properly route the calls over interstate or intrastate transmission lines to the

established by AT&T's service offering although the FCC limited its finding of technical feasibility apparently because of limitations on the technology's current deployment.

"However, it appears in view of AT&T's new tariff offering that isolation of intrastate 900 calls on a real-time basis is now or soon will be technically possible. Therefore, IPs may be able to apply state-imposed preamble requirements to intrastate 900 calls, and one of the fundamental bases for preemption, jurisdictional inseverability, may no longer be valid." Order at ¶26.

In fact, there is simply no doubt that it is technically feasible to distinguish interstate and intrastate 900 calls. The only remaining issue of importance is whether it is worthwhile to fully deploy the necessary technology, and the extent to which carriers should now be required to provide the capability to offer different blocking options.

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While California has insufficient information at this time to offer comment upon the costs involved in providing different blocking capabilities, we are concerned that the FCC may permit economics to override the requirements of the Communications Act. Neither the FCC nor carriers can be permitted to undermine the dual federal-state regulatory scheme mandated by the Communications Act by simply choosing not to make reasonable investments in the technology necessary to comply with the law.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
TIMOTHY E. TREACY

By:

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